

PETER T. CREAMER

IBLA 75-646

Decided September 30, 1975

Appeal from decision of the Nevada State Office, Bureau of Land Management, denying reinstatement of oil and gas lease N-6390, terminated by operation of law for failure to pay annual rental on or prior to the due date.

Affirmed.

1. Oil and Gas Leases: Reinstatement -- Oil and Gas Leases: Rentals

An oil and gas lease terminated by operation of law for failure to pay the advance rental on time may be reinstated only upon a showing that failure to pay on or before the anniversary date was either justifiable or not due to lack of reasonable diligence. Inability to pay the rent on time does not justify late payment.

APPEARANCES: Peter T. Creamer, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Peter T. Creamer appeals from a decision dated May 21, 1975, by the Nevada State Office, Bureau of Land Management, denying his petition for reinstatement of oil and gas lease N-6390, terminated by operation of law for failure to make timely payment of the rent as provided in 30 U.S.C. § 188(b) (1970) and 43 CFR 3108.2-1(c)(2).

[1] An oil and gas lease terminated by operation of law for failure to pay the advance rental on time may be reinstated only on a showing that the failure to pay on or before the anniversary date was either justifiable or not due to lack of reasonable diligence. 30 U.S.C. § 188(c) (1970). Failure to mail the payment "sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment" normally constitutes a lack of reasonable diligence. 43 CFR 3108.2-1(c)(2).

The anniversary date of the lease was May 1, 1975. The rental payment arrived at the State Office on May 5 in an envelope bearing a May 1 postmark. Appellant adverts to his financial difficulties in an attempt to justify his late payment. While we sympathize with the appellant, this Board has held that inability to pay rental on time does not justify late payment of the rental. Faye A. Nicholas, 21 IBLA 69 (1975); Louis Samuel, 8 IBLA 268, 274 (1972). Appellant's failure to show a justifiable reason for his late payment of the rental precludes reinstatement of the lease.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joseph W. Goss
Administrative Judge

